



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1499

October 27, 2003

Mr. Horst G. Greczmiel
Associate Director for NEPA Oversight
Council on Environmental Quality

Dear Mr. Greczmiel:

Subject: The NEPA Task Force Report to the Council on Environmental

This constitutes Tennessee Valley Authority comments on the recommendations contained in the NEPA Task Force Report to the Council on Environmental Quality (CEQ) as requested in the meeting hosted by CEQ with Federal Agency NEPA contacts on September 25. We understand there will be subsequent opportunities to comment on priority of recommendations and approaches to implementation of adopted recommendations.

We commend the task force on the identification and analysis of implementation issues and the numerous ideas and recommendations for improvement of the NEPA process. The six focal areas addressed by the report are rich with opportunities for improvement. TVA is supportive of advancements which can be fostered by CEQ in those areas and interested in sharing ideas and lessons-learned with other agencies engaged in the NEPA process.

With regard to the recommendation in Technology and Information Management and Security, we believe the first recommendations regarding promotion of development and sharing of NEPA information systems would be beneficial. We also agree that the final recommendation regarding consistent policies for sensitive information in the NEPA process would be helpful. On the other hand, we do not believe the fourth and fifth recommendations for establishing a NEPA technical working group to address information requirements, protocols and standards, or for a government-wide review by the agencies of their quality control and assurance standards for NEPA analysis and documentation would be practical or productive. It would be difficult to develop a "one size fits all" data structure that would meet the needs of all agencies.

Regarding the area of Federal and Intergovernmental Collaboration, we support the intent of the recommendations for better working relationships among agencies, and specifically the recommendations for guidance and templates for collaborative agreements, and sharing of lessons learned through workshops and training. We do not believe, however, that a Federal Advisory Committee is necessary to accomplish these objectives. We suggest that further consideration of these recommendations include a focus on eliminating duplication of effort when multiple agencies are conducting reviews and related consultations on the same project.

In the area of Programmatic Analyses and Tiering we support the recommendation that CEQ provide guidance and advice on use of programmatic and tiered NEPA reviews, particularly as related to the third recommendation on the appropriate place and time to address deferred issues, and the final recommendation on scope and depth of analysis required in programmatic reviews. Again, given the vast experience of the agencies in conducting NEPA reviews, we question the need for a Federal Advisory Committee to assist this effort. Finally, on a very specific matter in Table 1, Section 3.1, we note the inappropriate listing of a paper prepared by TVA staff as an example of actions addressed in a programmatic analyses or documents. This is a paper prepared for presentation in a professional conference and journal publication, not a NEPA review.

We agree with the task force findings under Adaptive Management and Monitoring that the "adaptive management" concept as applied to NEPA is poorly understood, and, perhaps underutilized. We are particularly supportive of the second and third recommendations aimed at identifying how adaptive management approaches can be used in situations involving great uncertainty and where impact evaluation might otherwise involve theoretical or speculative methods to address unavailable information. We would add that it is important to reflect that developments in this area should clearly identify adaptive management approaches as an optional tool for agencies to use in such situations. It should not become an avenue for requiring long-term monitoring and commitments to re-evaluate actions when methodologies for impact prediction and experience in implementation of similar project activities are well established. CEQ and agencies may be able to provide good examples of adaptive management in a NEPA context instead of conducting a pilot project. We would also like to express support for the final two recommendations relative to use of a recognized EMS to satisfy mitigation and monitoring provisions in EISs and FONSI.

Regarding Categorical Exclusions, we are generally supportive of the task force recommendations. There is currently very little CEQ guidance relative to categorical exclusions, and clarifying guidance in the areas listed could be helpful, particularly along the lines of the third recommendation which would provide basis for categorical exclusions on broadly defined criteria that will provide agencies with sufficient flexibility, and encourage agencies to identify examples of frequently conducted activities that would usually fall within the categories. The focus of guidance should be on both appropriate use and more effective use of this tool in suitable situations. We also agree with the fifth recommendation that the CEQ review process for new categorical exclusions should be clarified and improved. Current review procedures are so cumbersome as to hinder agency updates and revisions of categorical exclusions.

We are also generally supportive of task force recommendations related to Environmental Assessments, particularly the first item which recommends one CEQ guidance document for EAs, and the third which emphasizes that EAs and FONSI should focus on issues and resources that might be significantly affected or a public

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concern. This should help avert the growing tendency for EAs to become "mini-EISs." Rather than pursuing the recommendation to describe minimum requirements for short EAs, it would be more useful if CEQ could provide examples of what they consider to be sound, concise EAs.

Finally, under Additional Areas of Consideration, we support the first recommendation regarding development of a handbook to guide integration of NEPA with Endangered Species Act Section 7 consultation, National Historic Preservation Act Section 106 coordination, and other related environmental review requirements.

We also note the recommendation that CEQ establish a professional position(s) to provide technical consultation and guidance to agencies on improving NEPA implementation. This brings us to a final general observation about the report. The report recommends that CEQ charter several technical working groups, as well as Federal Advisory Committees to further develop the details of the recommendations and guidance documents. As CEQ and Federal agencies consider the merits of the recommendations, it may also be appropriate to consider them in terms of time and resource requirements and practicality. We assume that these issues will come more into play in the second and third phases of review, but we believe it is important to focus early on recommendations which are achievable within current constraints.

We look forward to continued involvement in subsequent stages of review of the task force report and implementation strategies. Please contact me at 865-632-3012 or e-mail me at jmloney@tva.gov if you have questions regarding our comments.

Sincerely,

Jon M. Loney
Manager, NEPA Administration
Environmental Policy and Planning